

Federal Housing Finance Board

§910.9

(2) Continue to process an administrative appeal previously filed under paragraph (a) of this section.

[63 FR 37485, July 13, 1998, as amended at 65 FR 8257, 8258, Feb. 18, 2000; 65 FR 20346, Apr. 17, 2000]

§910.9 Fees.

(a) *Fees.* Except as otherwise provided in a statute specifically providing for setting fees for particular types of records or in this section, the Finance Board shall assess against each requester the direct costs of responding to a request for records.

(1) If the records are requested for a commercial use, the direct costs are limited to the reasonable operating costs the Finance Board incurs to search, review, and duplicate records.

(2) If the records are not requested for a commercial use and the requester is an educational institution, non-commercial scientific institution, or representative of the news media, the direct costs are limited to the reasonable operating costs the Finance Board incurs to duplicate records in excess of 100 pages.

(3) If neither the request nor the requester is described in paragraphs (a) (1) or (2) of this section, the direct costs are limited to the reasonable operating costs the Finance Board incurs to search in excess of two hours and duplicate records in excess of 100 pages.

(4) For purposes of this section, the term:

(i) *Commercial use request* means a request from, or on behalf of, a person who seeks records for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(ii) *Educational institution* means a preschool, public or private elementary or secondary school, or institution of undergraduate, graduate, professional, or vocational higher education that operates a program of scholarly research.

(iii) *Non-commercial scientific institution* means a nonprofit institution operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(iv) *Representative of the news media* means a requester who is actively

gathering information that is about current events or would be of current interest to the public for an entity that is organized and operated to publish or broadcast news to the public.

(b) *Fees when no records are provided.* The Finance Board may assess a fee for the direct costs of searching for a requested record the Finance Board cannot locate or if located, determines to be exempt from disclosure under §910.5.

(c) *Interest.* The Finance Board may assess interest at the rate prescribed in 31 U.S.C. 3717 on any unpaid fees beginning 31 days after the earlier of the date of the determination under §910.4 or the date a fee statement is mailed to a requester. Interest shall accrue from such date.

(d) *Exceptions.* Notwithstanding paragraphs (a) or (b) of this section, the FOIA Officer may determine not to assess a fee or to reduce a fee if:

(1) The routine cost of collecting and processing the fee is likely to equal or exceed the amount of the fee.

(2) The fee is equal to or less than 10 dollars.

(3) Disclosure of the record is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(i) A requester may apply in writing to the FOIA Officer for a waiver of fees under this paragraph (d)(3). A fee waiver request shall include the following:

(A) The requester's interest in and proposed use of the record;

(B) Whether the requester will derive income or other benefit from the record;

(C) An explanation of how the public will benefit from disclosure, including the requester's ability and intention to disseminate the information to the public; and

(D) The requester's expertise in the subject area of the record.

(ii) In determining whether disclosure of a record is in the public interest, the FOIA Officer shall consider whether the record:

(A) Concerns identifiable operations or activities of the Finance Board;

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(B) Is meaningfully informative in relation to the subject matter of the request;

(C) Contributes to an understanding of the subject matter by the public at large, and the significance of that contribution; and

(D) Furthers, or is primarily in, the requester's commercial interest.

(e) *Aggregating requests.* If the FOIA Officer reasonably believes that a requester or a group of requesters acting in concert is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the FOIA Officer may aggregate such requests and assess fees in accordance with this section.

(f) *Collecting fees.* (1) The Finance Board shall deem any request for Finance Board records as an agreement by the requester to pay fees and interest assessed in accordance with this section.

(2) To pay fees and interest assessed under this section, a requester shall deliver to the Office of Resource Management, located at the Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, a check or money order made payable to the "Federal Housing Finance Board."

(3) Prior to disclosing any record, the FOIA Officer may require a requester to agree in writing to pay actual fees and interest incurred in accordance with this section if the estimated fee will likely exceed \$25 but not \$250.

(4) The FOIA Officer may require a requester to pay an estimated fee in advance if:

(i) It is determined that the fee will likely exceed \$250; or

(ii) The requester has previously failed to pay a fee assessed under this section within 30 days of the earlier of the date of the determination under §910.4 or the date a fee statement was mailed to a requester.

(5) The Finance Board shall promptly refund to a requester any estimated advance fee paid under paragraph (f)(4) of this section that exceeds the actual fee. The FOIA Officer shall assess the requester for the amount by which the actual fee exceeds the estimated advance fee payment.

(g) *Fee schedule.* The FOIA Officer shall assess fees in accordance with the following schedule:

Search:		
Manual: Supervisory/Professional Staff.		\$34.00 per hour.
Manual: Clerical Staff		\$17.00 per hour.
Computer: Operator		\$34.00 per hour.
Computer output (PC)		actual cost.
Diskettes (3½ × 5¼)		\$5.00 per diskette.
Review		\$34.00 per hour.
Duplication:		
Photocopy		\$1.00 per page.
Computer generated		\$1.00 per page.
Copy of microfiche		\$3.00 per page.
Transcription of audio tape.		\$4.50 per page.
Certification, seal and attestation by the FOIA Officer.		\$5.00 per document.
Delivery:		
Facsimile transmission (long distance).	Long distance charges plus \$.25 per page.	
Facsimile transmission (local).	\$.25 per call plus \$.25 per page.	
Express delivery service	Actual cost.	

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AUTHORITY: 5 U.S.C. 301; 12 U.S.C. 1422b(a)(1).

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